

### REMARKS

Claims 1-43 are pending in this application. Claims 2-9, 13, 22 and 24-43 are withdrawn from consideration as being drawn to non-elected inventions. Claims 1, 10-12, 14, 15, 17-21 and 23 are rejected. Claims 1, 11, 12 and 21 are amended. Claim 10 is canceled without prejudice or disclaimer.

The amendments to claims 1, 12 and 21 ("... a substituted aromatic ring or rings ...") were made at the suggestion of the Patent Office (February 10, 2003 office action, page 1, paragraph 2). As support for the amendments, clofibric acid, which has an aromatic ring substituted with chlorine, is stated on application page 13 and in claim 11. Also, chemical structures on pages 5, 6, 10 and 11 of the specification show substituted aromatic structures. Other amendments to claims 12 and 21 add the roman numeral label "V" to identify the chemical structure of the peroxisome proliferator. The amendment to claim 11 makes claim 11 now depend from claim 1 instead of claim 10. The amendments and new claims add no new matter.

Reconsideration of the rejections and allowance of the claims in view of the above amendments and following remarks is respectfully requested.

#### Improperly Withdrawn Claim

In the February 10, 2003 office action, the Patent Office lists claim 16 as withdrawn from consideration. Claim 16 is in Group IV (claims 1 and 10-26), elected in applicant's December 23, 2002 response to a restriction requirement. Claim 16 also reads on applicants' species election of clofibric acid as a peroxisome proliferator, and a cell wall glucan fragment from *Phytophthora sojae* as an enhancing compound. Therefore, applicants respectfully request that claim 16 be examined at this time.

#### Duplicate Claim Warning

The Patent Office stated that should claim 1 be found allowable, claim 10 will be objected to as being a substantial duplicate thereof, under 37 CFR 1.75. In response, applicants cancel claim 10.

Claim Rejections - Rule § 112, Second Paragraph

The Patent Office rejected claims 1, 10-12, 14, 15, 17-21 and 23 for not reciting, specifically in claims 1 and 12, that R10 in those claims can be a substituted aromatic as required by the election of clofibric acid.

Applicants have amended claims 1 and 12, and also claim 21, to recite that R10 is an aromatic ring or rings, or a substituted aromatic ring or rings. Claims 11 and 15-20 depend from claim 1. Claim 14 depends from claim 12. Claim 23 depends from claim 21. Applicants submit that the claim amendments overcome the rejection.

Claim Rejections - Rule § 102(b)

The Patent Office rejected claims 1, 10, 11, 15, 17 and 21 as being anticipated by Long & Basler, 1973, Plant Physiology 51:128-135 (hereinafter, "Long").

Applicants claim 1 recites "... applying to the surface of at least part of a plant ... a composition ..." Long does not disclose a composition "applied to the surface" of a plant. Lacking such disclosure, Long does not anticipate applicants' claim 1, nor dependent claims 11, 15 and 17.

With regard to claim 21, the Patent Office stated that this claim recites, in part (a) of the claim, a peroxisome proliferator and, in part (b) of the claim, an additional component functioning to enhance the release of isoflavones from conjugate sugar and/or to enhance the incorporation of aglycones into glyceollin. The Patent Office stated that part (b) of claim 21 has no patentable significance because it is a statement to the "intended use" of the composition. Using this reasoning that part (b) does not limit the claim, the Patent Office concluded that Long meets the limitations of claim 21.

Respectfully, part (b) of applicants' claim 21 does not recite a statement of intended use. Rather, part (b) of claim 21 recites a required functional characteristic for the claimed enhancing compounds. Under part (b) of claim 21, the claimed enhancing compounds; i) enhance the release of isoflavones from a sugar conjugate, or ii) enhance incorporation of aglycones into glyceollin, or iii) both i and ii. Not all compounds will have this recited function. The Patent Office's statement that part (b) of applicants' claim 21 "does not specify particular compounds" is also incorrect. While part (b) does not recite the names of all the compounds that have such functional characteristics, it does provide enough information for one of ordinary skill in the art

to know which group of compounds can be used in conjunction with the peroxisome proliferator recited in part (a) of the claim. Moreover, the specification includes a number of specific enhancing compounds that have one or more of the functions recited in claim 21, part (b). One such enhancing compound is the elected cell wall glucan fragment from *Phytophthora sojae*. Given that part (b) of applicants' claim 21 does recite specific compounds that are not disclosed by Long, Long does not anticipate applicants' claim 21.

In view of the above-described amendments and remarks it is submitted that claims 14-20 and 23, and amended claims 1, 11, 12 and 21 are now in condition for allowance. Prompt notice of such allowance is respectfully requested.

Respectfully submitted,

Dated: 6/9/03

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